

ORIGINAL
OPEN MEETING ITEM



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COMMISSIONERS
JEFF HATCH-MILLER - Chairman
WILLIAM A. MUNDELL
MARC SPITZER
MIKE GLEASON
KRISTIN K. MAYES



Executive Secretary

22

ARIZONA CORPORATION COMMISSION

Arizona Corporation Commission
DOCKETED

DATE: January 20, 2005

DOCKET NO: T-04277A-04-0690

TO ALL PARTIES:

JAN 20 2005

DOCKETED BY	<i>CRP</i>
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Enclosed please find the recommendation of Administrative Law Judge Marc E. Stern. The recommendation has been filed in the form of an Order on:

TELECOM MANAGEMENT, INC. dba PIONEER TELEPHONE
(CC&N/RESELLER)

Pursuant to A.A.C. R14-3-110(B), you may file exceptions to the recommendation of the Administrative Law Judge by filing an original and thirteen (13) copies of the exceptions with the Commission's Docket Control at the address listed below by **4:00 p.m.** on or before:

JANUARY 31, 2005

The enclosed is NOT an order of the Commission, but a recommendation of the Administrative Law Judge to the Commissioners. Consideration of this matter has tentatively been scheduled for the Commission's Working Session and Open Meeting to be held on:

FEBRUARY 8 AND 9, 2005

For more information, you may contact Docket Control at (602)542-3477 or the Hearing Division at (602)542-4250. For information about the Open Meeting, contact the Executive Secretary's Office at (602) 542-3931.

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[Signature]
BRIAN C. McNEIL
EXECUTIVE SECRETARY

1
2 **BEFORE THE ARIZONA CORPORATION COMMISSION**

3 **COMMISSIONERS**

4 JEFF HATCH-MILLER, Chairman
5 MARC SPITZER
6 WILLIAM A. MUNDELL
7 MIKE GLEASON
8 KRISTIN K. MAYES

9 IN THE MATTER OF THE APPLICATION OF
10 TELECOM MANAGEMENT, INC. dba PIONEER
11 TELEPHONE FOR A CERTIFICATE OF
12 CONVENIENCE AND NECESSITY TO PROVIDE
13 COMPETITIVE RESOLD INTEREXCHANGE
14 TELECOMMUNICATIONS SERVICES, EXCEPT
15 LOCAL EXCHANGE SERVICES.

DOCKET NO. T-04277A-04-0690

DECISION NO. _____

16 **ORDER**

17 Open Meeting
18 February 8 and 9, 2005
19 Phoenix, Arizona

20 **BY THE COMMISSION:**

21 Having considered the entire record herein and being fully advised in the premises, the
22 Arizona Corporation Commission ("Commission") finds, concludes, and orders that:

23 **FINDINGS OF FACT**

24 1. On September 23, 2004, Telecom Management, Inc. dba Pioneer Telephone
25 ("Applicant" or "Pioneer") filed with the Commission an application for a Certificate of Convenience
26 and Necessity ("Certificate") to provide competitive resold interexchange telecommunications
27 services, except local exchange services, within the State of Arizona.

28 2. Applicant is a switchless reseller that purchases telecommunications services from a
variety of carriers for resale to its customers.

3. In Decision No. 58926 (December 22, 1994), the Commission found that resold
telecommunications providers ("resellers") are public service corporations subject to the jurisdiction
of the Commission.

4. Pioneer has authority to transact business in the State of Arizona.

5. On November 10, 2004, Applicant filed an Affidavit of Publication indicating

1 compliance with the Commission's notice requirements.

2 6. On December 20, 2004, the Commission's Utilities Division Staff ("Staff") filed a
3 Staff Report which includes Staff's fair value rate base determination in this matter and recommends
4 approval of the application subject to certain conditions.

5 7. In the Staff Report, Staff stated that Pioneer provided unaudited financial statements
6 for the 12 months ending December 31, 2003, which list assets in excess of \$869,000, equity in
7 excess of \$795,000 and a net income of \$281,267.

8 8. In its Staff Report, Staff stated that based on information obtained from the Applicant,
9 it has determined that Pioneer's fair value rate base ("FVRB") is zero and is not useful in a fair value
10 analysis, and is not useful in setting rates. Staff further stated that in general, rates for competitive
11 services are not set according to rate of return regulation. Staff has reviewed the rates to be charged
12 by the Applicant and believes they are just and reasonable as they are comparable to several long
13 distance carriers operating in Arizona and comparable to the rates the Applicant charges in other
14 jurisdictions. Therefore, while Staff considered the FVRB information submitted by the Applicant,
15 the FVRB information provided should not be given substantial weight in this analysis.

16 9. Staff believes that Pioneer has no market power and that the reasonableness of its rates
17 will be evaluated in a market with numerous competitors. In light of the competitive market in which
18 the Applicant will be providing its services, Staff believes that the rates in Applicant's proposed
19 tariffs for its competitive services will be just and reasonable, and recommends that the Commission
20 approve them.

21 10. Staff recommended approval of Pioneer's application subject to the following:

22 (a) The Applicant should be ordered to comply with all Commission rules, orders,
23 and other requirements relevant to the provision of intrastate telecommunications
24 service;

25 (b) The Applicant should be ordered to maintain its accounts and records as
26 required by the Commission;

27 (c) The Applicant should be ordered to file with the Commission all financial and
28 other reports that the Commission may require, and in a form and at such times as the
Commission may designate;

1 (d) The Applicant should be ordered to maintain on file with the Commission all
2 current tariffs and rates, and any service standards that the Commission may require;

3 (e) The Applicant should be ordered to comply with the Commission's rules and
4 modify its tariffs to conform to these rules if it is determined that there is a conflict
5 between the Applicant's tariffs and the Commission's rules;

6 (f) The Applicant should be ordered to cooperate with Commission investigations
7 including, but not limited to customer complaints;

8 (g) The Applicant should be ordered to participate in and contribute to the Arizona
9 Universal Service Fund, as required by the Commission;

10 (h) The Applicant should be ordered to notify the Commission immediately upon
11 changes to the Applicant's name, address or telephone number;

12 (i) If at some future date, the Applicant wants to collect from its resold
13 interexchange customers an advance, deposit and/or prepayment, Staff recommends
14 that the Applicant be required to file an application with the Commission for
15 Commission approval. Such application must reference the Decision in this docket
16 and must explain the Applicant's plans for procuring a performance bond;

17 (j) The Applicant's interexchange service offerings should be classified as
18 competitive pursuant to A.A.C. R14-2-1108;

19 (k) The Applicant's maximum rates should be the maximum rates proposed by the
20 Applicant in its proposed tariffs. The minimum rates for the Applicant's competitive
21 services should be the Applicant's total service long run incremental costs of
22 providing those services as set forth in A.A.C. R14-2-1109;

23 (l) In the event that the Applicant states only one rate in its proposed tariff for a
24 competitive service, the rate stated should be the effective (actual) price to be charged
25 for the service as well as the service's maximum rate; and

26 (m) In the event the Applicant requests to discontinue and/or abandon its service
27 area it must provide notice to both the Commission and its customers. Such notice(s)
28 shall be in accordance with A.A.C. R14-2-1107.¹

11. Staff further recommended that Pioneer's Certificate should be conditioned upon the
Applicant filing conforming tariffs in accordance with this Decision within 365 days from the date of
an Order in this matter, or 30 days prior to providing service, whichever comes first.

12. Staff recommended that if the Applicant fails to meet the timeframes outlined in

¹ Pursuant to A.A.C. R14-2-1107, the Applicant is required to comply and obtain Commission authorization of
compliance with all of the requirements, including but not limited to the notice requirements, prior to discontinuance of
service and/or abandonment of its service area.

Findings of Fact No. 11, that Pioneer's Certificate should become null and void without further Order of the Commission, and that no time extensions for compliance should be granted.

13. Pioneer will not collect advances, prepayments or deposits from its customers.

14. The rates proposed by this filing are for competitive services.

15. Staff's recommendations as set forth herein are reasonable.

16. Pioneer's fair value rate base is zero.

CONCLUSIONS OF LAW

1. Applicant is a public service corporation within the meaning of Article XV of the Arizona Constitution and A.R.S. §§ 40-281 and 40-282.

2. The Commission has jurisdiction over Applicant and the subject matter of the application.

3. Notice of the application was given in accordance with the law.

4. Applicant's provision of resold interexchange telecommunications services is in the public interest.

5. Applicant is a fit and proper entity to receive a Certificate as conditioned herein for providing competitive resold interexchange telecommunications services in Arizona.

6. Staff's recommendations in Findings of Fact No. 8, 9, 10, 11, and 12 should be adopted.

7. Pioneer's fair value rate base is not useful in determining just and reasonable rates for the competitive services it proposes to provide to Arizona customers.

8. Pioneer's rates, as they appear in its proposed tariffs, are just and reasonable and should be approved.

ORDER

IT IS THEREFORE ORDERED that the application of Telecom Management, Inc. dba Pioneer Telephone for a Certificate of Convenience and Necessity for authority to provide competitive resold interexchange telecommunications services, except local exchange services, is hereby granted, conditioned upon its compliance with the conditions recommended by Staff as set forth in Findings of Fact No. 11 above.

1 IT IS FURTHER ORDERED that Staff's recommendations set forth in Findings of Fact Nos.
2 8, 9, 10, 11, and 12 above are hereby adopted.

3 IT IS FURTHER ORDERED that Telecom Management, Inc. dba Pioneer Telephone shall
4 comply with the adopted Staff recommendations as set forth in Findings of Fact Nos. 10 and 11
5 above.

6 IT IS FURTHER ORDERED that if Telecom Management, Inc. dba Pioneer Telephone fails
7 to meet the timeframes outlined in Findings of Fact. No. 11 above that the Certificate conditionally
8 granted herein shall become null and void without further Order of the Commission.

9 IT IS FURTHER ORDERED that Telecom Management, Inc. dba Pioneer Telephone shall
10 not require its Arizona customers to pay advances, prepayments or deposits for any of its products or
11 services.

12 IT IS FURTHER ORDERED that this Decision shall become effective immediately.

13 BY ORDER OF THE ARIZONA CORPORATION COMMISSION.

14
15 CHAIRMAN COMMISSIONER COMMISSIONER

16
17
18 COMMISSIONER COMMISSIONER

19 IN WITNESS WHEREOF, I, BRIAN C. McNEIL, Executive
20 Secretary of the Arizona Corporation Commission, have
21 hereunto set my hand and caused the official seal of the
22 Commission to be affixed at the Capitol, in the City of Phoenix,
23 this ____ day of _____, 2005.

24 BRIAN C. McNEIL
EXECUTIVE SECRETARY

25 DISSENT _____

26
27 DISSENT _____

28 MES:mlj

SERVICE LIST FOR:

TELECOM MANAGEMENT, INC. DBA PIONEER
TELEPHONE

DOCKET NO.:

T-04277A-04-0690

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